Goods Movement - Draft Report
Innovative Finance and Alternative Funding Work Group

Financing Tools for Transportation

Draft - October 20, 2005

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Financing Goods Movement Facilities In California

Improving the movement of goods in California is among the highest priorities for Governor Schwarzenegger. It is the policy of this Administration to improve and expand California's goods movement industry and infrastructure. The Schwarzenegger Administration has established a Cabinet Work Group to lead the implementation of this policy for goods movement and ports by working collaboratively with the logistics industry, local and regional governments, neighboring communities, business, labor, environmental groups and other interested stakeholders to achieve shared goals.

Beginning in June 2004, the Schwarzenegger Administration began a concerted effort to assemble goods movement stakeholders to learn about the problems, opportunities, and challenges facing the future of goods movement within the State. These efforts led to the formation of the Administration Goods Movement Policy, "Goods Movement in California," in January 2005. The "Goods Movement Action Plan, Phase I, Foundations", was published in September of 2005. Part of a two-phase process, it is an attempt to characterize the "why" and the "what" of the State's involvement in goods movement in the following four segments: (1) the goods movement industry and its growth potential; (2) the four "port-to-border" transportation corridors that constitute the state's goods movement backbone and the associated inventory of infrastructure projects being planned or are underway; (3) the extent of environmental and community impacts—as well as a description of mitigation approaches; and (4) key aspects of public safety and homeland security issues. Substantial effort was focused on developing the inventory of existing and proposed goods movement projects. The listing includes previously identified projects in various Regional Transportation Plans (RTP) and Regional Transportation Improvement Programs (RTIP) prepared by Municipal Planning Organizations (MPOs), Transportation Commissions and Councils of Governments (COGs). In addition, the listings include a wide range of outlined projects underway or under consideration by the ports, railroads, and other third parties. Prior to this compilation, no comprehensive statewide inventory was available.

The Phase II Action Plan to be completed by December 2005 will develop a statewide implementation plan for goods movement capacity expansion including financing options for goods movement facilities, goods movement-related environmental and community mitigation, and goods movement-related homeland security and public safety enhancement. It will define the "how," "when," and "who" required to synchronize and to integrate efforts to achieve relief and improvement as quickly as possible.

The Phase II effort will be executed by work groups comprised of various stakeholders in conjunction with team leaders from BTH and Cal/EPA staffs. Over a four-month period, each of the work groups will be tasked with the responsibilities of developing business plans which will detail the timing, sequencing, and funding of corridor expansion projects. Each corridor working group will also review, evaluate, and recommend corridor-specific operational improvements; environmental and community impact mitigation strategies; and homeland security and public safety enhancements. The working groups will also be responsible for identifying how the costs of improvements and mitigation measures could be funded.

This report is the product of the work group on Financing Goods Movement Facilities in California. A team of industry leaders assisted by transportation finance experts from a number of financial institutions throughout the country have collaborated to assemble this menu of financing tools ranging from the basics to the latest concepts in creative financing. The purpose is to provide the Schwarzenegger Administration with the best set of tools from which to select to finance the priority projects identified elsewhere in the Phase II Action Plan.

I. Pay-As-You-Go

Project Type	Traditional Non-Revenue Project
Description	Funds received from various sources (Federal, gas tax, excise tax) are spent for new construction and maintenance as they are received
Benefits	— Simple — Future resources not committed
Requirements	— Operation, maintenance, and rehabilitation of state highway system has first priority on State highway account funds – implemented through State Highway Operations and Protection Program (SHOPP) — Allocations among potentially competing projects are made by the California Transportation Commission (CTC) with input from 43 Regional Transportation Planning Agencies (RTPAs) in the State Transportation Improvement Program (STIP)
Projects	— Many

II. General Obligation Bonds

Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by a pledge of the State's "full faith and credit"
Benefits	— Generally higher credit rating than bonds secured by other revenue sources — Accelerates availability of funds relative to pay-as-you-go
Requirement	Voter approval
Legislation	— Clean Air and Transportation Improvement Bond Act of 1990 — Passenger Rail and Clean Air Bond Act of 1990
Projects	Many

III. Appropriation Bonds

Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by a pledge to seek an appropriation of funds from the Legislature as needed to pay debt service
Benefits	— Doesn't require voter approval — Accelerates availability of funds relative to pay-as-you-go
Requirements	Annual legislative appropriation
Legislation	Would be required
Projects	The State of California has utilized the appropriation pledge as a secondary source of security for the Economic Recovery Bonds and to securitize payments from the tobacco industry Master Settlement Agreement through the Golden State Tobacco Securitization Corporation. In addition, lease revenue bonds issued by the State of California carry an annual appropriation pledge. Commonwealth of Virginia – Commonwealth Transportation Board

III. Appropriation Bonds, cont.

Projects

The State of California has utilized the appropriation pledge as a secondary source of security for the Economic Recovery Bonds and to securitize payments from the tobacco industry Master Settlement Agreement through the Golden State Tobacco Securitization Corporation. In addition, lease revenue bonds issued by the State of California carry an annual appropriation pledge.

Commonwealth of Virginia – Commonwealth Transportation Board

— Financings for Route 58, Route 28, and Northern Virginia Transportation District

— Limited obligations for the Commonwealth and the Transportation Board, payable from funds appropriated by the General Assembly

  - In some cases, appropriations are payable from a specified source of revenues

IV. Other Tax Bonds

Name	Fuel Tax and Highway User Tax Revenue Bonds
Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by a combination of gas taxes, registration fees, licensing fees, and other taxes
Benefits	— State-wide source of money which is already used for transportation — Accelerates availability of funds relative to pay-as-you-go
Requirements	— Voter approval of constitutional amendment — California Constitution allows for leveraging of motor vehicle revenues (up to 25%) upon voter approval
Legislation	— Article 19 of the California Constitution requires gas taxes to be spent on transportation — Additional legislation required to use gas tax revenues as a source for repayment of obligations
Projects	— A majority of states have gas tax bonding programs

IV. Other Tax Bonds, cont.

Name	Sales Tax on Gas
Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by sales tax collections
Benefits	— State-wide or local source of money which is already used for transportation — Accelerates fund availability relative to pay-as-you-go
Requirements	Voter approval or additional legislation
Legislation	Proposition 42 (Article 19B) dedicates revenues from the State's share of the sales tax on gasoline to transportation projects. Requires transfers from the General Fund to the Transportation Investment Fund (TIF) Tax flows to TIF had been suspended by "emergency" declaration by the Governor pursuant to Article 19B; but were restored in Fiscal Year 2005-2006 only for that year. Efforts are currently being made through constitutional amendment (Proposition 76) to eliminate future suspension of Proposition 42. Consideration could also be given, in a similar future ballot measure, to enabling local government to pledge Proposition 42 funding as security for bonds issued for local transportation projects.

IV. Other Tax Bonds, cont.

Projects — TIF was intended to be used for Traffic Congestion Relief Program (TCRP) projects

IV. Other Tax Bonds, cont.

Name	Sales Tax
Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by sales tax collections
Benefits	— State-wide or local source of money — Accelerates fund availability relative to pay-as-you-go
Requirements	Voter approval
Legislation	On county ballots; typically one-half of 1% with sunset dates
Projects	— Many counties have sales tax programs which they have leveraged both for highways and transit — Sales taxes must be voted for a specific period of time, and projects must be authorized — Existing programs include counties such as Alameda, Contra Costa, Fresno, Los Angeles, Orange, Riverside, Sacramento, San Diego, San Francisco, San Mateo, San Bernardino, and Santa Clara

IV. Other Tax Bonds, cont.

Name	Tax Allocation
Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by incremental property taxes resulting from increases in property values above a base year
Benefits	— Local source of money — Accelerates fund availability relative to pay-as-you-go
Requirements	Approved by resolution of sponsoring city creating redevelopment area
Legislation	Governed by various provisions of the community redevelopment law
Projects	Used to redevelop former George Air Force Base into Southern California Logistics Airport

IV. Other Tax Bonds, cont.

Name	Special tax or assessments
Project Type	Traditional Non-Revenue Project
Description	Bonds are issued in the capital markets which are secured by special assessments on property owners
Benefits	— Local source of money — Accelerates fund availability relative to pay-as-you-go
Requirements	Landowner approval within the district
Legislation	Passed in 1982 known as Mello-Roos bonds. In other states, known as community development authorities or community facilities districts.
Projects	— Financed portions of the Orange County toll roads — In Virginia, funded new interchanges on Interstate 66

IV. Other Tax Bonds, cont.

Name	Tax Credit Bonds for Expansion of Rail and Highway
Project Type	Marketable Revenue Projects
Description	Tax Credit Bonds utilize repayment of principal by users and repayment of "interest" by the state in the form of tax credits
Objective	To finance goods movement projects with both state and local benefits via bonds whose repayment is shared by both jurisdictions
Benefits	— State receives local contribution to repayment of goods movement costs — Local governments obtain state contribution to local road and rail improvements — Tax credit bonds bring new set of investors to the table
Requirements	— State must agree to loss of tax revenue — Locals must agree to collect local contribution — Financial community acceptance of tax credit in lieu of interest
Legislation	— State legislation required — Federal legislation beneficial to obtain Federal contribution to repayment or Federal tax benefits

V. Federal Aid Grants Leveraging

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the federal reauthorization bill, became effective on August 10, 2005. The Act authorizes $286.5 billion in funding for surface transportation projects through FY 2009.

SAFETEA-LU includes certain provisions intended to enhance federal innovative financing programs and encourage private sector investment in transportation. These opportunities are highlighted below:

— Private Activity Bonds – Bonding authority is expanded for private activity bonds by adding privately-leased or –owned highway facilities and surface freight transfer facilities to the activities eligible for exempt facility bonds. The bonds aren't subject to the general annual volume cap for private activity bonds for State agencies and other issuers, but are subject to a separate national cap of $15 billion.

— Transportation Infrastructure Finance and Innovation Act (TIFIA) – A total of $610 million is authorized through 2009 to pay the subsidy cost of supporting Federal credit under this program. The total project cost threshold has been lowered to $50 million from $100 million established under the previous Federal act, TEA-21, and eligibility is expanded to include public freight rail facilities or private facilities providing public benefit for highway users, intermodal freight transfer facilities, access to freight facilities and service improvements to the facilities, including capital investment for intelligent transportation systems.

— State Infrastructure Banks (SIBs) – A new SIB program is established which allows all States to enter into cooperative agreements with the U.S. Department of Transportation to establish infrastructure revolving funds eligible to be capitalized with Federal transportation funds authorized for fiscal years 2005-2009.

In addition to the above, provisions that increase States' flexibility to use tolling, not only to manage congestion, but also to finance infrastructure improvements are available on a pilot or demonstration basis. They include:

— the collection of tolls on an Interstate highway, bridge, or tunnel for the purpose of constructing Interstate highways, while prohibiting non-compete clauses;

— implementation of up to 15 variable pricing pilot programs nationwide to manage congestion and benefit air quality, energy use, and efficiency; and

— allowance for 15 demonstration projects through 2009 to permit tolling to manage high levels of congestion, reduce emissions in a nonattainment or maintenance area, or finance added Interstate lanes for the purpose of reducing congestion.

V. Federal Aid Grants Leveraging, cont.

Name	Federal Matching Funds
Project Type	Traditional Non-Revenue Projects
Benefits	— Expedite project construction — Improving cash flow allows states to pursue multiple projects concurrently, stretching limited federal dollars — Provide more flexibility to the states in satisfying the non-Federal matching requirements and in their management of Federal funds
Options	**<u>Tapered Match</u>** — Removes the provision that requires application of Federal match to each payment to the State — Allows the Secretary to develop policies regarding adjustment of the Federal match during the life of the project — Limited to situations that result in expediting project completion, reducing project costs or leveraging additional non-federal funds — State can advance a project before fully securing bond and capital market financing

V. Federal Aid Grants Leveraging, cont.

Options, cont.

Credits for Acquired Land (Third Party Donations)

- Expands current law relating to donated private property to also allow the fair market value of land lawfully obtained by State or local government to be applied to non-Federal share of project costs
- Acquisition of real property enables states to leverage transportation investment
- Third parties includes private companies, organizations, and individuals
- Certain publicly-owned property may be used

Using Federal Funds as Match

- For transportation enhancement projects, State may apply funds from other Federal agencies to the non-Federal share
- Funds appropriated to any Federal land management agency may be used to pay the non-Federal share of a Federal-aid project funded under section 104 of Title 23, U.S. Code
- Federal Lands Highway Program funds may be used to pay the non-Federal share of projects funded under Section 104 of Title 23 that provides access to or within Federal or Indian lands

V. Federal Aid Grants Leveraging, cont.

Options, cont.

Toll Revenue Credits

- Allows States to accumulate credits based on toll revenues used to build, improve, or maintain certain highways and bridges to be applied to the non-Federal share of certain projects
- State must pass annual maintenance of effort (MOE) test

Program Match

- Establishes annual program-wide approval for STP projects, rather than the quarterly project-by-project approval process
- Provides the Secretary with discretion to apply match requirements to the annual program in lieu of individual projects

Legislation

TEA-21, Sections 1108,1111,1115, 1301, 1302,1303

Projects

Tapered Match-SR 520 Translake Project
Toll Credits - Over $8 billion in 19 states, including:

Pres. George Bush Turnpike-TX

The counties of Dallas, Collin, and Denton contributed $39.9 million in local rights-of-way to the project. Under the TE-045 program, the value of this contribution will count toward the state's 20 percent non-Federal match requirement allowing state funds to be used on other projects.

V. Federal Aid Grants Leveraging, cont.

Project, cont.

<u>Spring-Sandusky Corridor-Ohio</u>

The Ohio Department of Transportation (ODOT) is using toll credits as the state matching share for Grant Anticipation Revenue Vehicle (GARVEE) bond reimbursements to maximize transportation resources. Under the toll credit technique of TEA-21, a state may apply the use of excess toll revenues as a credit toward the non-Federal matching share of Federally-assisted transportation projects. Toll credits do not provide cash to the project to which they are applied, but their use effectively raises the Federal share to up to 100 percent on projects receiving toll credits.

Ohio has used $286 million out of $653 million from excess expenditures generated by the Ohio Turnpike System towards the non-Federal matching share of eligible projects, including $130 million for a group of nine eligible major improvement projects. Ohio is using these toll credits at the state level to match GARVEE bonds and also sharing its credits with local government agencies for highway and transit projects. The toll credit option has enabled ODOT to more effectively leverage existing resources and increase capital investments.

V. Federal Aid Grants Leveraging, cont.

Name	Advance Construction Authority
Project Type	Traditional Non-Revenue Projects
Description	State may use non-Federal funds to advance a Federal-aid project while preserving its eligibility to receive Federal-aid reimbursements in the future
Benefits	— Eliminates the need to set aside full obligation authority before starting projects — State can undertake greater number of concurrent projects — Facilitates construction of large projects while maintaining obligation authority for smaller ones
Options	— Conversion to a Federal-aid project by obligating permissible share of its Federal-aid funds and receiving subsequent reimbursements in the future — Conserve obligation authority and maintain flexibility in funding program — Under partial conversion, state converts, obligates, and receives reimbursement for only a portion of the Federal share of project costs which removes requirement to wait until full amount of obligation authority is available

V. Federal Aid Grants Leveraging, cont.

Legislation	National Highway System Designation Act of 1995 (NHS), Section 308
Projects	$19.6 billion in 47 states
	<u>Pres. George Bush Turnpike-TX</u> Partial Conversion of Advance Construction allowed the Texas Department of Transportation (TXDOT) to use North Texas Turnpike Authority (NTTA) funds immediately and preserve eligibility for reimbursement of the federal share of the project in the future. This tool provided critical Federal-aid cash inflows timed to meet the project's construction schedule.

V. Federal Aid Grants Leveraging, cont.

Name	Grant Anticipation Revenue Vehicles (GARVEES)
Description	Debt financing instrument that has the pledge of future Federal-aid for debt service and is authorized for Federal reimbursement of debt service and related financing costs
Project Type	Traditional Non-Revenue Projects
Benefits	— Generates up-front capital for major projects that states may be unable to construct in the near term using traditional pay- as-you-go methods — Can be used in conjunction with advance construction to enable using Federal-aid funds for future debt service payments — Enables states to accelerate construction timelines and spread the cost over the useful life rather than just the construction period — Expands access to capital market, as an alternative, or in addition to, potential general obligation or revenue bonding capabilities
Options	States can now receive Federal-aid reimbursements for a wide array of debt-related costs incurred with an eligible debt financing instrument, such as bond, note, certificate, mortgage, or lease. Debt-related costs include ongoing administrative costs and credit enhancement costs.

V. Federal Aid Grants Leveraging, cont.

Legislation	Section 122 of Title 23, United States Code California Government Code Sections 14550-14555.9
Projects	California's inaugural issuance of $614,850,000 of GARVEE bonds in March 2004 provided the necessary financing to advance eight priority transportations projects throughout the State. These projects are: — San Diego I-15 Managed Lanes — Riverside SR-60/SR-91/I-215 Interchange — Santa Clara Route I-880/Coleman Avenue Interchange — Santa Clara SR-87 (North) — Santa Clara SR-87 (South) — Los Angeles I-5 HOV Lanes — Los Angeles I-405 Auxiliary Lanes — Los Angeles I-405/Highway 101 Gap Closure Alabama, Alaska, Arizona, Arkansas, Colorado, Maine, Massachusetts, New Mexico, New Jersey, North Dakota, Ohio, Rhode Island and Virgin Islands have all issued GARVEE bonds.

VI. State Credit Assistance

Name	State Infrastructure Banks (SIBS)
Description	— A state revolving fund that can offer a range of loans and credit assistance enhancement products to public and private sponsors of Title 23 projects. — Types of assistance include loans, loan guarantees, standby lines of credit, letters of credit, certificates of participation, debt service reserve funds, bond insurance, and other non-grant assistance — Designated Transportation Finance Bank Revolving Loan Program in California
Benefits	— Funds can be leveraged to attract private, local, and additional state resources into a larger investment — SIB capital can be used as collateral in the bond market or to establish a guaranteed reserve fund — States can contribute additional funds beyond the required non-federal match — Potential model for I-Bank
Requirements	Requires state enabling legislation-39 have so far Currently underfunded ($3 million)
Legislation	— Section 350 NHS Act — California Government Code Section 64000 — Legislation required to give authority to issue debt for leveraging

VI. State Credit Assistance, cont.

Projects

32 states have entered into 347 loan agreements worth over $4.5 billion as of June 30, 2003. Dollar value of SIB loans is concentrated in South Carolina, Florida, Arizona, Ohio, and Texas.

California

California's SIB, the Transportation Finance Bank, was established to provide flexible, short-term loans to public entities and public/private partnerships to advance transportation projects. Authorized as a pilot project under the National Highway System Designation Act of 1995, $3 million was appropriated by the U.S. Department of Transportation for capitalization purposes. To date, two projects have been funded to date under the TFB: $600,000 for the El Rancho Drive Storm Damage Repair project in the County of Santa Cruz and $520,000 to the Stanislaus Council of Governments for the Route 132 East Infill Widening Project.

VI. State Credit Assistance, cont.

Projects, cont.

South Carolina

The cornerstone of SCDOT's program is the Transportation Infrastructure Bank (SIB) which was created in 1997 by the General Assembly to assist in financing major projects. The SIB has approved and begun development of nearly $2.4 billion in projects. It is governed by a seven-member Board of Directors with administrative, financial, engineering, and other services provided by SCDOT staff.

Unique features:

— Capitalized almost entirely with state funds

— Leveraging its capital through bonding ($850 million revenue bonds)

— Authority to provide grants as well as loans for project financing

— Requires localities to provide a local contribution

VI. State Credit Assistance, cont.

Projects, cont.

Sources of revenue:

- Federal capitalization monies
- $66 million from State General fund as one-time source of capitalization
- Share of state gas tax
- Truck registration fees
- Contributions from applicants who have received funding in the form of loan repayments and additional contributions from SCDOT

The SIB is contributing 45 percent, applicants are providing 45 percent of project costs, and SCDOT is providing 10 percent. The leadership of the Governor, General Assembly, SIB Board, and cooperation of SCDOT and the State Treasurer's Office, along with other financial and legal assistance, have contributed to its success.

Florida

Florida's SIB is a revolving loan and credit enhancement program consisting of a Federal-funded SIB account and a state-funded SIB account. The Federal SIB is capitalized with Federal money matched with state money as authorized under TEA-21. The State SIB is capitalized with state money of $50 million per year through 2003 and can leverage funds through loans and credit enhancement assistance to improve project feasibility.

Below market rate loans are a subsidy that the Florida Department of Transportation (FDOT) has been willing to provide. FDOT requires that the project sponsor propose an interest rate relative to the loan and repayment stream.

VII. Toll Revenue Bonds

Project Type	—	Marketable Revenue Projects
	—	Revenue Projects Requiring Credit Assistance
Description	—	Bonds are issued in the capital markets which are secured by tolls, such as those collected on a bridge or a system of roads or bridges
	—	Projects may be publicly or privately developed and owned
Benefits	—	Direct user fee
	—	New source of funding
Legislation	—	AB 680, (Chapter 107, Statutes of 1989) (Public/Private legislation)
	—	Bay Area Toll Authority (BATA) – Streets & Highways (S&H) Code, Sections 30900 and 30920
	—	Seismic Retrofit Bond Act of 1996 – S&H Code Section 31070
	—	AB 1010 (Chapter 688, Statutes of 2002) – Authorizes OCTA to acquire 91 Express Lanes
	—	Joint Exercise of Powers Act – Government Code Section 6500
Projects	California: Bay Bridges, Transportation Corridor Agencies (Orange County), SR 91, and SR 125	
	Colorado, Pennsylvania, New Jersey, New York, Massachusetts, Maine, Indiana, Florida, Orlando-Orange County Expressway Authority (FL), and CTTA (TX)	

VIII. Federal Loans and Credit Support

Name	Transportation Infrastructure Finance and Innovation Act (TIFIA)
Project Type	Revenue Projects Requiring Credit Assistance
Description	Leverage limited Federal resources and stimulate capital investment by providing credit rather than grants to projects of national or regional significance with the following:

- Direct loans offer flexible repayment terms and provide combined construction and permanent financing of capital costs
- Loan Guarantees provide full-faith and credit guarantees by the Federal government to institutional investors, such as pension funds, which make loans for projects
- Standby lines of credit represent secondary sources of funding in the form of contingent Federal loans that may be drawn upon to supplement project revenues, if needed, during the first 10 years of project operations

VIII. Federal Loans and Credit Support, cont.

Benefits	— Improves access of senior debt in capital markets — Flexible repayment terms — Potentially favorable interest terms — Can help advance large capital-intensive projects by providing subordinate debt with "equity-like" features
Requirements	— Federal credit assistance may not exceed 33% of total eligible project costs — Sponsors may be public or private entities, including state governments — Any project that is eligible for Federal assistance through surface transportation projects is eligible — Competitive application process — Total project cost must be at least $50 million ($15 million for ITS projects) — Project must be supported in whole or part by user charges or other non-Federal dedicated funding sources and included in the state's Transportation Plan — Must have circulated Draft EIS or received Finding of No Significant Impact at time of application
Legislation	Transportation Equity Act for the 21st Century (TEA-21) as amended by SAFETEA-LU

VIII. Federal Loans and Credit Support, cont.

Projects	USDOT has provided $3.1 billion in TIFIA assistance for 10 projects, including Miami Intermodal Center, SR-125, Washington Metro, Cooper River Bridge, Staten Island Ferries, Central Texas Turnpike Authority, and Reno Rail Corridor. A TIFIA loan for the Bay Bridges was approved; however, a loan agreement was not executed and the financing responsibility for this project has since been transferred to the Bay Area Toll Authority. Pre-TIFIA credit support also provided to Foothill Eastern and San Joaquin Hills toll roads, and to the Alameda Corridor project.

VIII. Federal Loans and Credit Support, cont.

Name	Section 129 Loans
Project Type	Revenue Projects Requiring Credit Assistance
Description	Allow Federal participation in a state loan to a toll project and to non-toll projects with a dedicated revenue stream, such as excise taxes, sales taxes, real property taxes, motor vehicle taxes, incremental property taxes, or other beneficiary taxes
Benefits	— Allows states to leverage additional transportation resources and recycle assistance to other eligible projects — States have flexibility to negotiate interest rates and other terms
Requirements	— No Federal requirements that apply since selection process is governed by state law and state responsibility to ensure that the recipient uses the loan for the specified purposes — Loan may be made for any amount provided that the maximum Federal share (80%) of total eligible project costs are not exceeded

VIII. Federal Loans and Credit Support, cont.

Requirements, cont.

- — Total eligible project costs limited to costs of engineering, right-of-way acquisition, and construction at the time FHWA authorizes loan to be made
- — Loan can only be made to active, eligible projects
- — Loan cannot cover the cost of work done prior to loan authorization
- — Project loan can be authorized in conjunction with advance construction
- — Loans must be repaid to the state, beginning within five years after construction completed and project open to traffic
- — Repayment must be completed within 30 years after Federal funds authorized
- — When repaid, state is required to use the funds for a Title 23 eligible project or credit enhancement activities

Legislation

U.S. Code Section 129
Legislative and Regulatory Implications of TEA-045

VIII. Federal Loans and Credit Support, cont.

Projects

President George Bush Turnpike, Texas

TXDOT will pass through a $135 million loan of Surface Transportation Program (STP) Federal-aid funds to North Texas Turnpike Authority (NTTA) as part of the project's financing plan. This money gave NTTA the bonding capacity needed to cover project costs, and greatly enhanced the creditworthiness of NTTA's $450 million in revenue bonds issued for the project. The loan also allowed NTTA to contribute $20 million to the project from funds that might otherwise have been required as reserves for the debt. NTTA's repayment obligation on the Section 129 loan will be subordinate to the repayment of its toll revenue debt service since interest was deferred until 2000. Repayment of the loan is spread over 25 years and does not begin until 2004. Similarly, interest accrues on the bonds from the date of issuance, but is not paid until 2005. Both payment schedules help protect investors from the risk associated with the project's construction and start-up period. After repayment, Section 129 loan funds may be used to capitalize the Texas State Infrastructure Bank (SIB).

IX. Public-Private Partnerships

Although state and local government entities have traditionally chosen to own, finance, and operate their transportation systems, many government entities have elected to retain private sector experts for specific "outsourced" transportation responsibilities. Furthermore, several state and local government entities have elected to shift the responsibility and risk of an entire project, design, build, finance, and operations to the private sector.

In 1989, California passed an innovative transportation bill named AB 680 which granted 35 year franchise agreements for four demonstration toll road projects. The AB 680 franchise agreements granted the demonstration project concessionaires broad powers in the design, financing, and operation of toll roads. Pursuant to AB 680, the privately owned 91 Express Lanes in Orange County opened in 1995 and the SR 125 in San Diego County is expected to open in 2006.

Since 1989, several factors have contributed to a renewed focus on public private partnerships for transportation projects:

— Increased demand for transportation projects that has overwhelmed state and local government's ability to raise federal, state, and local transportation funds;
— A growing public acceptance and advocacy of market-based "value" or "congestion management" toll protocols; and
— The growing sophistication of electronic toll collection procedures.

The perceived ability to rapidly grow toll revenues and lower operating costs through technological advances has attracted toll road operators and developers from around the world to the U.S. market. The foreign toll road operators and developers have introduced their native long-term concession models ranging from 35 years to 99 years and ability to use commercial bank loans and private equity as well as long-term bonds to finance toll roads in the United States.

The continued demand for more infrastructure capacity in the United States as well as in California has prompted many state and local government transportation entities to review the public policy as well as financial benefits of public private partnerships. In the past 10 years, Virginia DOT and Texas DOT have launched aggressive plans to grant toll road developers long-term concessions for express lanes, dedicated truck toll lanes,

IX. Public-Private Partnerships, cont.

and new "Greenfield" toll roads. In addition, the City of Chicago drew national attention when it sold it's "non-core asset" Chicago Skyway for $1.8 billion last year to a joint venture of a Spanish toll road operator and an Australian infrastructure fund.

Public private partnerships can take a variety of forms. Long-term franchise agreements are complicated documents that must take public policy, finance, and changing demographics into account. Nevertheless, today's transportation realities prompted by the growing acceptance of market-based toll protocols has attracted a wide variety of financing tools which utilize equity, commercial bank loans, taxable bonds, and traditional tax-exempt bonds.

IX. Public-Private Partnerships, cont.

Name	Toll Road or Transportation Facility Concession
Project Type	Marketable Revenue Projects
Description	Lease of a concession that grants the right to operate, maintain, and collect tolls on an existing or proposed facility for a specified term in return for an upfront fee or revenue sharing paid to the state or local agency. Private partner uses a combination of debt and equity to finance the project.
Objective	Private investors and public agencies development of projects
Benefits	— State or local agency may receive substantial up-front payment or long-term revenue sharing for lease of an existing facility — State or local agency shifts responsibility for operation to private operator — Financing is arranged and remains on the balance sheet of the private partner after the end of the concession — State or local agency maintains ultimate ownership — Private operator receives right to operate and earn profits, and is the owner of the asset for tax purposes — Since the private partner has equity invested, the private entity has “skin in the game” and therefore a long-term commitment

IX. Public-Private Partnerships, cont.

Requirements	— State or local agency controls process of selecting a preferred investor group and negotiating terms of operation
	— Legal title remains with state or local agency
	— Investor has right to set fees and tolls so long as in compliance with contract, and the State negotiates specific controls related to the fee or toll-setting authority
	— State or local agency monitors fulfillment of terms
	— System for resolution of disputes
	— Reversion at end of lease to state or local agency
Legislation	— Requires legislation
Financing Options	Multiple:
	— Tax-Exempt Bonds issued by 63-20 Corporation
	— Private Activity Bonds
	— Taxable Bonds
	— Private Equity and Commercial Bank Debt

IX. Public-Private Partnerships, cont.

Projects

— The Dulles Greenway is a 14-mile toll road in Loudon County, Virginia between VA-28 near Washington Dulles Airport. The road and land were originally owned by TRIP-II, a company owned by local investors. Sydney-based Macquarie Infrastructure Group purchased an 87% stake in September.

— Opened to traffic in 1958, the Chicago Skyway is a 7.8-mile toll bridge connecting the Dan Ryan Expressway (I-94) around Chicago to the Indiana Toll Road in Indiana; it is a shortcut between the City of Chicago and the State of Indiana. Earlier this year, the City of Chicago entered into a 99-year lease with CINTRA and Macquarie Infrastructure that brought the City a windfall of $1.8 billion.

— Indiana Governor Mitch Daniels indicated that the state would post a request for a proposal for private companies to lease the Indiana Toll Road – one option in a list of about 30 that the state is considering to fund its 10-year, $10.6 billion transportation plan.

— SR 125-South is a 9.3 mile north-south toll road under construction along the eastern fringe of the San Diego metro area. Owned by the Sydney, Australia-based Macquarie Infrastructure Group, SR 125-South is expected to cost about $650 million.

— The Trans-Texas Corridor (TTC) is a proposed multi-use, statewide network of transportation routes in Texas that will incorporate existing and new highways, railways and utility right-of-ways. While

IX. Public-Private Partnerships, cont.

Projects

specific routes have not been selected, the TTC-35 corridor and the I-69/TTC have been identified as two primary components. As envisioned, each route will include separate lanes for passenger vehicles and large trucks, freight railways, high-speed commuter railways, and infrastructure for utilities including water lines, oil and gas pipelines, and transmission lines for electricity, broadband and other telecommunications services. Plans call for the TTC to be completed in phases over the next 50 years with routes prioritized according to Texas' transportation needs. The Texas Department of Transportation (TxDOT) will oversee planning, construction and ongoing maintenance, although private vendors will be responsible for much of the daily operations. In March 2005, TxDOT and Cintra-Zachry signed a comprehensive development agreement for TTC-35. This agreement authorizes a \$3.5 million planning effort only.

X. State Financing

Name	California Infrastructure and Economic Development Bank (I-Bank)
Project Type	— Direct Loans to Local Government Entities — Revenue Bonds for Government Agencies — Revenue Bonds for Non-Profit Public Benefit Corporations
Description	Direct loans to local government entities were funded by a net appropriation from the Legislature, commencing in the 2003/2004 fiscal year. Loans are funded from the proceeds of revenue bonds issued by I-Bank. Revenue bonds for government agencies and revenue bonds for a non-profit public benefit corporation are funded 100% by the capital markets.
Objective	To finance public infrastructure.
Benefits	— Sixteen designated public infrastructure categories: city streets, county highways, drainage, water supply, and fold control, educational facilities, environmental mitigation measures, parks and recreational facilities, port facilities, power and communications, public transit, sewage collection and treatment, solid waste collection and disposal, water treatment and distribution, defense conversion, public safety facilities, state highways, and military infrastructure. — Provide a low-cost financing option. — No matching funds required.
Requirements	Must meet established program criteria.

X. State Financing, cont.

Legislation — Program is operational.

Projects

The Coachella Redevelopment Agency
Construction of a railway overpass at Avenue 50 and an extension of a City of Coachella street. The railway overpass will enable vehicle traffic to cross the Union Pacific Railroad lines uninterrupted, linking the industrial and commercial areas of the City to major transportation corridors. The project will also enhance emergency vehicle response times and enable the City to expand its public transit system.

Redevelopment Agency of the City of Yuba
Roadway construction and reconstruction, traffic signal installation, undergrounding of utilities, and water, sewer and storm drainage installation, which will result in connecting Walton Road to State Route 99. The project will address traffic problems within the project area as well as facilitate the development of 30 acres of commercial/light industrial property located in the Yuba City Redevelopment Project Area.

California Department of Transportation (Caltrans)
The I-Bank financed the Toll Bridge Seismic Retrofit Program. Chapter 907, Statutes of 2001 (AB 1171) authorized the I-Bank to issue revenue bonds, notes and/or commercial paper for Caltrans to fund the construction of the seismic upgrade of the State-owned toll bridges. In August 2003, the I-Bank issued $1.16 billion of long-term fixed-rate revenue bonds for Caltrans. The bonds are

X. State Financing, cont.

rated "AA" by all three rating agencies, and will be repaid solely from revenues and related interest earnings generated by the $1 per vehicle seismic retrofit surcharge collected on the seven Bay Area State-owned toll bridges. Caltrans is using the bond proceeds, in part, to fund a portion of the construction of the new East Span of the San Francisco-Oakland Bay Bridge, which is one of the largest public works projects in Northern California history. Under Assembly Bill 144 (Chapter 71, Statutes of 2005) the financial administration of the $1 surcharge has been transferred to the Bay Area Transportation Authority, thus requiring the defeasance of the I-Bank bonds.

Recent Legislation in Other States

VIRGINIA

The Virginia Public-Private Transportation Act of 1995 is the legislative framework enabling the Commonwealth's qualifying local governments and certain other political entities to enter into agreements authorizing private entities to acquire, construct, improve, maintain, and /or operate qualifying transportation facilities. The public entities may either solicit or accept unsolicited proposals from private sources.

Private entities can propose innovative financing methods, including the imposition of user fees or service payments. The financing arrangements may include the issuance of debt, equity or other securities or obligations. The proposer may enter into sale and leaseback transactions and secure any financing with a pledge of, security interest in, or lien on, any or all of its property, including all of its property interests in the qualifying transportation facility.

All proposals are subject to the Virginia Freedom of Information Act, and VDOT will come to its own judgment whether or not requested materials are exempt from disclosure. Proposers can contact VDOT prior to submission regarding their concerns.

DELAWARE

The Delaware Public-Private Initiatives Program enables the Department of Transportation to enter into agreements using federal, state and local financing in connection with the demonstration projects, including without limitation, grants, direct loans, credit enhancements which do not pledge the full faith and credit of the State, and loans from the Public-Private Initiatives Program Revolving Loan Fund. The General Assembly passed legislation in 1999 to make the program more financially attractive to the private sector and allowed public participation in privately owned projects.

MASSACHUSETTS

The 1999 Public/Private Procurement Statute specifically authorizes MassHighway to issue debt to the contractor in lieu of cash payments for work performed. The debt can be secured by project revenues on a subordinated basis.

Recent Legislation in Other States, cont.

NORTH CAROLINA

NC Turnpike Authority (Proposed)

- Authorizes creation of a public agency, NC Turnpike Authority, to construct, operate, and maintain toll roads in the state
- Seven-member Board of Directors, consisting of six members appointed by the Governor and one designated by the Secretary of Transportation
- Board authorized to adopt and revise bylaws
- Prior to adoption, bylaws subject to review and comment by Board of Transportation and the Joint Legislative Transportation Oversight Committee
- Authority could only hire administrative personnel
- Authority to contract for the services of other needed personnel and utilize personnel of NCDOT
- Spending on administration limited to 10% of project revenue

Powers of Authority

- Condemn property
- Issue Revenue Bonds
- Enter into Partnership Agreements
- Allow state and federal funds to be mixed with toll revenue bond proceeds for public or private development through 63-20 agreements
- Revenue bonds subject to the approval of the Local Government Commission
- Authority considered a "municipality" for purpose of issuing bonds

Use of Revenues

- Revenue from toll projects could only be used for following:
  - Turnpike administration
  - Turnpike project development, construction, operation and maintenance
  - Turnpike project debt service

NCDOT Cost Participation

- NCDOT authorized to participate in cost of preconstruction, construction, maintenance, or operation

Recent Legislation in Other States, cont.

NORTH CAROLINA, cont.

Equity Distribution Formula

- Projects subject to equity distribution formula for State Highway Funds (SHF) only to the extent that the project is funded from SHF, or Federal-Aid funds that would otherwise be subject to the formula
- Operation and project development costs of Authority would be eligible administrative expenses of Highway Trust Fund
- Tolls to be removed when all agreements in connection with the issuance of revenue bonds have been fulfilled
- Payment of Bonds; State Credit not pledged
- Bonds issued under the Authority do not constitute a debt of the State, nor a pledge of the full faith and credit of the State

Other State Programs And Legislation

Arizona Regional Area Road Fund Bonds (RARF)

This legislation allows local counties to authorize and issue bonds or incur long-term obligations payable in whole or in part from monies in a regional area road fund. RARFs are funded with transportation excise tax monies. Registered voters in counties with over 1.2 million residents can approve an incremental tax on electricity and natural gas for up to 20 years. These funds are then deposited in the RARF. The state's interest is as an obligee for reimbursement of state monies that are advanced as salaries or expenses that are to be repaid by the RARF.

Florida Bonds for Land and Bridges

A Constitutional Amendment allows debt financing for the purchase of land and the construction of bridges. The amount of money that can be bonded is capped and limited to a percentage of the revenues coming into the state transportation trust fund. As of early 2001, the state has issued over $1 billion and expects the total to reach $2 billion. By being able to move land purchase forward, the state has been able to accelerate construction and also leverage $18 billion in construction value. This is very effective because land for right-of-way can be purchased up front before it increases in value.

Virginia

The Virginia Transportation Act of 2000 (VTA) authorizes the Commonwealth Transportation Board to issue Federal Highway Revenue Anticipation Notes (FRANS) to accelerate the delivery of specified priority projects. The VTA limited the use of FRANs to no more than $800 million outstanding at any one time. Future receipts of federal highway project reimbursements were pledged as the revenue stream for the debt service.

Tax Increment Financing

Allows cities to create special districts and to make public improvements within those districts that will generate private-sector development. During the development period, the tax base is frozen at the predevelopment level. Property taxes continue to be paid, but taxes derived from increases in assessed values resulting from new development either go into a special fund created to retire bonds issued to originate the development or leverage future growth in the district.

Joint Development

Florida statute allows the state to enter into joint development agreements with private owners and has been used for the development of several park-and-ride lots.

Other State Programs And Legislation, cont.

Roadway Performance Warranty

New Mexico entered into a contract with Koch Industries to design, manage, and construct the expansion of Highway 44. The innovative feature is a roadway performance warranty.

For a one-time cost of $62 million, Koch is guaranteeing the overall performance of the highway pavement for 20 years from the date of completion, and will also warrant the bridges, drainage, and erosion control features of the highway for 10 years. The warranty is secured by a $114 million surety bond. The state will perform normal non-pavement maintenance along the roadway, such as mowing, snow removal, and signage. NM estimates that the state will save $89 million in maintenance costs over the 20-year period. The warranty requires the equivalent of a Pavement Serviceability index rating of 3.0 or better for the entire term of the warranty. The warranty is a means for the state to capture the true, long-term cost of highway infrastructure and to ensure the long-term maintenance of the highway. This avoids the deferral of maintenance which causes roads to deteriorate prematurely and wastes significant tax dollars.